CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	Ø	Force		Discourt.	☐ U.S.
Emily Devaney		Squad #1	201901960	Ø	Abuse		O.L.	☐ Injury
Incident Date(s)		Location of Incident:		F	Precinct:	18	Mo. SOL	EO SOL
Tuesday, 02/26/2019 11:00 PM		East 112th Street and 3	3rd Avenue		23	8.	/26/2020	4/12/2021
Date/Time CV Reported		CV Reported At:	How CV Reported:		Date/Time	Rec	eived at CC	RB
Wed, 02/27/2019 12:14 AM		IAB	Phone		Tue, 03/05	/201	9 12:37 PM	ſ
Complainant/Victim	Туре	Home Addre	ess		•			
Subject Officer(s)	Shield	TaxID	Command					
1. POM Michael Laborde	05867	954037	023 PCT					
2. LT Javier Familia	00000	932618	023 PCT					
Witness Officer(s)	Shield N	o Tax No	Cmd Name					
1. POM Jonathan Goenner	15852	941821	023 PCT					
2. POM Gregory King	26847	942010	023 PCT					
3. POM Michael Gagliardo	21607	959645	023 PCT					
Officer(s)	Allegation	on			Inve	stiga	ator Recor	nmendation
A.POM Michael Laborde	Force: Po § 87(2)(b)	olice Officer Michael La	aborde pointed his gu	ın a	t			
B.POM Michael Laborde	Abuse: P	olice Officer Michael L	aborde frisked § 87(2)(l	b)				
C.POM Michael Laborde	Abuse: P	olice Officer Michael L	aborde searched § 87(1	2)(b)				
D.POM Michael Laborde	Abuse: P	olice Officer Michael L	aborde searched the vas an occupant.	veh	icle			
E.LT Javier Familia	Abuse: L	ieutenant Javier Familia s use of a recording d		2)(b)				
F.LT Javier Familia	Abuse: L	ieutenant Javier Familia s recording device.	a searched § 87(2)(b)					
G.POM Michael Laborde	Abuse: P § 87(2)(b)	olice Officer Michael L	aborde interfered wi	th				
H.POM Michael Laborde	Abuse: P § 87(2)(b)	olice Officer Michael L	aborde threatened to	arre	est			
§ 87(4-b) § 87(2)(g)								

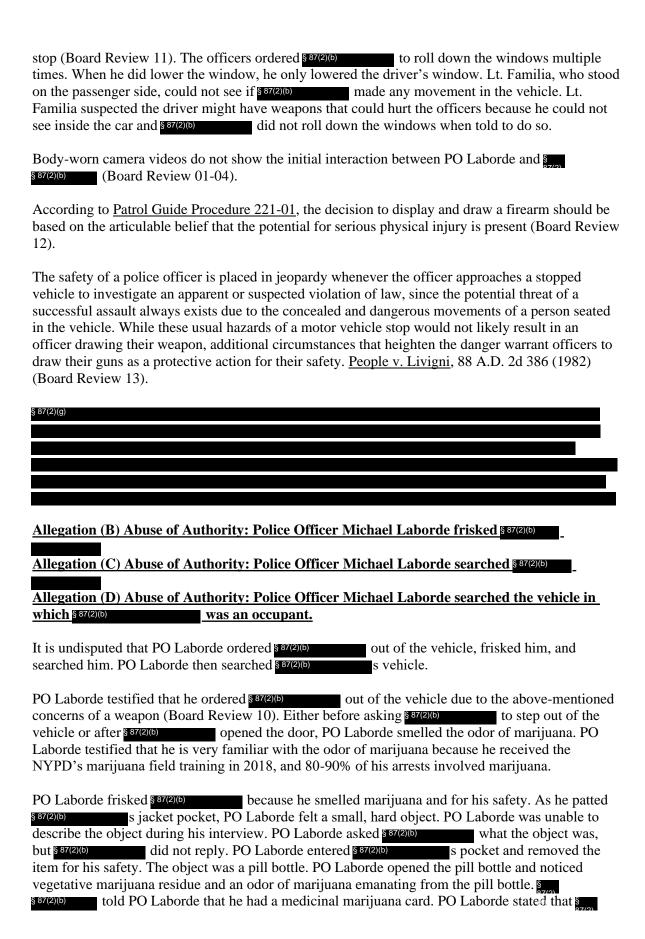
Case Summary

On February 27, 2019, § 87(2)(b) filed this complaint with IAB over the phone. IAB forwarded this complaint to the CCRB where it was received on March 5, 2019. On February 26, 2019, at approximately 11:00 p.m., § 87(2)(b) was driving his car when Lieutenant Javier Familia, Police Officer Michael Laborde, and Police Officer Michael Gagliardo, all from the 23rd Precinct, pulled him over at the intersection of Third Avenue and 112th Street in Manhattan, PO Laborde pointed his gun at the car as he approached and ordered \$87(2)(b) out of the vehicle (Allegation A: Force, \$87(2)(9) PO Laborde frisked and searched (Allegations B-C: Abuse of Authority, § 87(2)(9) PO Laborde searched s vehicle (**Allegation D: Abuse of Authority**, § 87(2)(9) Lt. Familia told § to put his phone away and then took the phone out of § 87(2)(b) (Allegation E: Abuse of Authority, § 87(2)(9) § 87(2)(b) alleged that Lt. Familia intentionally ended the recording on his phone (Allegation F: Abuse of Authority, PO Laborde issued § 87(2)(b) a summons for having illegally tinted windows. PO Laborde told § 87(2)(b) to put his phone down and threatened to arrest (Allegation G-H: Abuse of Authority, § 87(2)(9) There are four body-worn camera videos (Board Review 01-04). § 87(4-b), § 87(2)(9) also provided two cell phone videos he took at the scene (Board Review 05-06). **Findings and Recommendations** Allegation (A) Force: Police Officer Michael Laborde pointed his gun at 387(2)(5) It is undisputed that § 87(2)(b) was driving north on Third Avenue in his car which had windows tinted beyond the legal limit. PO Laborde, Lt. Familia, and PO Gagliardo pulled over his car. testified that he pulled over his vehicle immediately after the officers turned on picked up his cell phone from the cup holder. § 87(2)(b) the camera and put the phone on his lap. § 87(2)(b) looked to his left and saw PO Laborde pointing a gun at his car door. PO Laborde told § 87(2)(b) to roll down his window, which he stated that it was less than ten seconds after he stopped the car until PO Laborde told him to roll down the windows. PO Laborde subsequently holstered his weapon (Board Review 07-09). PO Laborde testified that § 87(2)(b) did not pull his car over for three blocks after PO Laborde turned on his lights and siren (Board Review 10). PO Laborde exited the police car and told to roll down his windows between six and ten times. After approximately 30 seconds, rolled down the driver's window a few inches. PO Laborde saw § 87(2)(b) lean forward and move side-to-side. PO Laborde drew his weapon because he suspected might have a weapon. PO Laborde believed § 87(2)(b) might have a weapon did not pull over right away, he did not fully roll down the windows when requested to do so, his hands were not visible to PO Laborde, and his movement in the car. PO Laborde denied pointing his gun at \$87(2)(0) or the car. After an additional 15 seconds, fully lowered the driver's window only. PO Laborde holstered his weapon when he saw did not have anything in his hands. that § 87(2)(b)

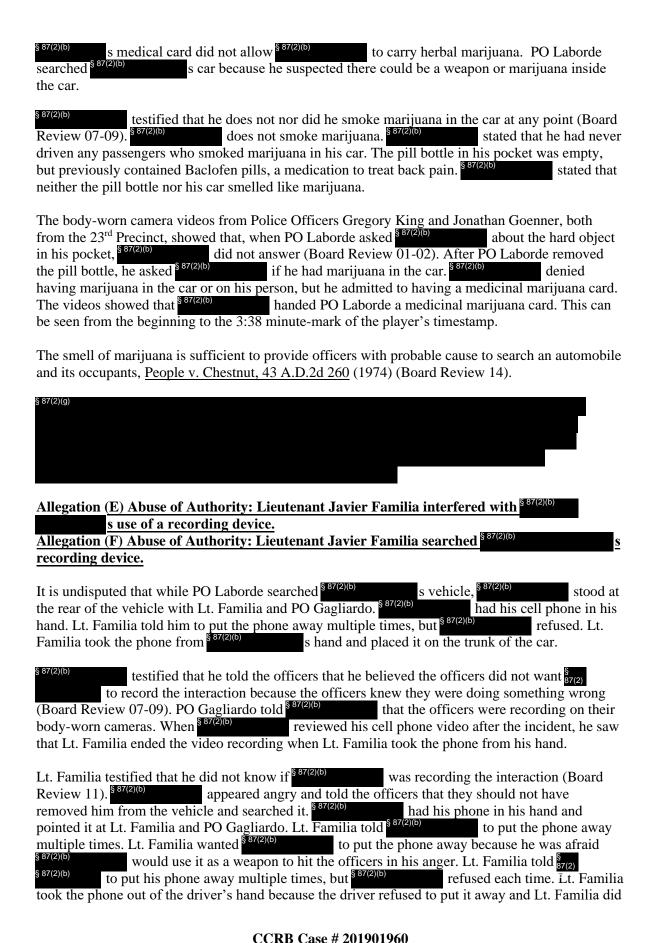
CCRB Case # 201901960

pulled over immediately after the officers signaled for him to

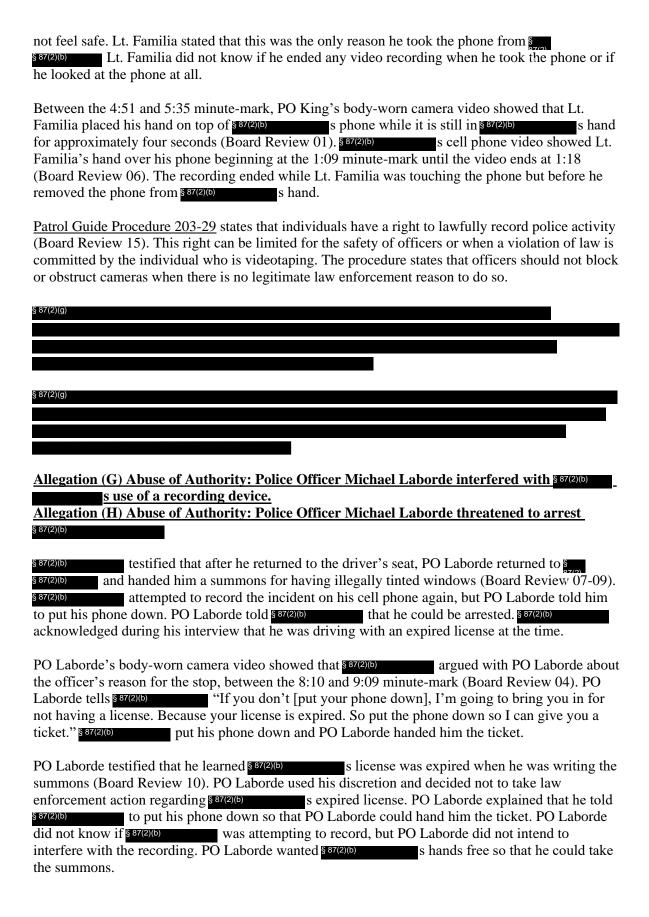
Lt. Familia stated that § 87(2)(b)



Page 2



CCRB CTS – Confidential Page 3



<u>Patrol Guide Procedure 203-29</u> states that individuals have a right to lawfully record police activity (Board Review 15). This right can be limited for the safety of officers or when a violation of law is committed by the individual who is videotaping. The procedure states that officers should not block or obstruct cameras when there is no legitimate law enforcement reason to do so.

New York Vehicle & Traffic Law § 509 states that no person shall drive a motor vehicle upon a public highway unless he is duly licensed (Board Review 16). A violation of this law is punishable by a fine or imprisonment.
by a fine of imprisonment.
§ 87(2)(g)
§ 87(4-b), § 87(2)(g)
•

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which \$87(2)(b) has been a party (Board Review 18).
- PO Michael Laborde has been a member of service for six years and has been a subject in 11 CCRB complaints and 38 allegations, of which one was substantiated (Board Review 19):
 - 201802439 involved a substantiated allegation of a question against PO Laborde.
 The Board recommended Formalized Training and the NYPD imposed Formalized Training.
 - § 87(2)(g)
- Lt. Javier Familia has been a member of service for 16 years and has been a subject in four CCRB complaints and nine allegations, none of which were substantiated. §87(2)(9)

Mediation, Civil and Criminal Histories

Mediation, Civil and Criminal Histories

S87(2)(b) declined to mediate this complaint.

As of November 21, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 20).

S87(2)(b) S8 S6(1)(3)8(4) S87(2)(c)

● [§ 87(2)(b)] [§§	86(1)(3)&(4)] [§ 87(2)(c)]		
Squad No.: _			
Investigator:	Signature	Print Title & Name	Date
Squad Leader:	Signature	Print Title & Name	Date
Reviewer:	Signature	Print Title & Name	Date